



December 14, 2023

SENT VIA E-MAIL

Ms. Sandra Lewandowski
U.S. Department of Education
Office of the Secretary
FOIA Service Center
400 Maryland Avenue, SW, LBJ 7W106A
Washington, DC 20202-4536
Sandra.Lewandowski@ed.gov

Re: Freedom of Information Act Request Regarding Grand Canyon University
FOIA Request No. 24-00550-F

Dear Ms. Lewandowski:

I am writing in response to your email, dated December 13, 2023. The email states that the U.S. Department of Education (“DOE”) conducted a “search” locating approximately 7,000 records of responsive documents and the fees for the “search of these documents have been calculated to be \$2,099.34.”

First, I want to be certain that the DOE understood the original records request. Attachment 1. Under Request #1, we are only seeking those email communications between the 7 identified individuals. In other words, we are seeking emails to or from the 7 individuals identified to or from any of the other 7 individuals identified. Under Request #2, we are seeking records that indicate the total number of complaints submitted to the DOE. And of course, both requests are limited to their specific timeframes. Given the limited nature of our request, 7,000 responsive records seems impossibly high.

Second, your response seems to *imply* that our request for a fee waiver has been denied yet we have not received a denial. The “government’s denial letter must be reasonably calculated to put the requester on notice as to the deficiencies in the requester’s case.” *Friends of the Coast Fork v. U.S. Dep’t of the Interior*, 110 F.3d 53, 55 (9th Cir. 1997). If the reason for the denial is “inadequate, and if the requesters meet their burden, then a full fee waiver is in order.” *Id.*

As you know, “[d]ocuments shall be furnished without any charge or at a charge reduced ... if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). The requestor must describe with

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reasonable specificity and pinpoint the type of government activity they are investigating. *See Citizens for Resp. & Ethics in Wash. v. U.S. Dep't of Educ.*, 593 F. Supp.2d 261, 268 (D.D.C. 2009); *Jud. Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“FOIA ... [is] liberally construed in favor of waivers for noncommercial requestors.” (citation & internal marks omitted))

As indicated in our request, the Goldwater Institute (“Institute”) is a not-for-profit 501(c)(3) organization, and no responsive records will be used for commercial purposes. We regularly publish scholarly articles, opinion pieces, blog posts, and we interact with the public regularly through the news media and our own distribution channels, including our webpage. These communications are on pressing issues of public policy of public interest and importance. Our fee waiver request easily satisfies the burden of showing that disclosure of the requested information is in the public interest in this case because it is likely to contribute significantly to the public understanding of the operations or activities of the DOE. The request seeks records of the DOE’s investigations and fines of the Higher Education Act as that relates to the investigation and fine of Grand Canyon University (“GCU”) which has been widely discussed in the public.¹ The Institute satisfies the necessary elements to qualify for a fee waiver. Please confirm whether our fee waiver request has been denied. Please also note that fee waivers have been sought and granted in our FOIA requests to other federal agencies.

Third, should our fee waiver request be denied, fees must be limited to “reasonable standard charges for document duplication.” 5 U.S.C. § 552(a)(4)(A)(ii)(II). As previously stated, the Institute is a not-for-profit 501(c)(3) organization. Through research, investigations, strategic litigation, testimony, advocacy, and education, the Institute advances public policy and the rule of law. The Internal Revenue Service recognizes our tax-exempt status as an entity organized and operated for educational purposes. 26 U.S.C. § 501(c)(3). As such, the Institute is not required to pay the \$2,099.34 for document searches.

¹ *See, e.g., U.S. Department of Education Office of Federal Student Aid Fines Grand Canyon University \$37.7 Million for Deceiving Thousands of Students*, U.S. Dep’t of Educ. (October 31, 2023), <https://www.ed.gov/news/press-releases/us-department-education-office-federal-student-aid-fines-grand-canyon-university-377-million-deceiving-thousands-students#:~:text=The%20U.S.%20Department%20of%20Education,the%20past%20four%20award%20years>; Danielle Douglas-Gabriel, *Grand Canyon University Pushes Back Against \$37M Fine from Education Dept.*, Wash. Post (Nov. 16, 2023), <https://www.washingtonpost.com/education/2023/11/16/grand-canyon-university-appeal-education-department-fine/>; Kenneth Wong, *Grand Canyon University Fined Millions by Federal Education Officials*, Fox10 (Oct. 31, 2023), <https://www.fox10phoenix.com/news/grand-canyon-university-fined-millions-by-federal-education-officials-heres-what-to-know>; Katie Lobosco, *Biden Administration Fines Grand Canyon University \$37.7 Million for Misrepresenting Cost of Doctoral Programs* (Oct. 31, 2023), <https://www.cnn.com/2023/10/31/politics/biden-grand-canyon-university-tuition/index.html>; Sasha Hupka, *Grand Canyon University Fined \$37.7M for Deceiving Students About Cost of Doctoral Degrees* (Oct. 31, 2023), <https://www.usatoday.com/story/news/education/2023/10/31/grand-canyon-university-fined/71396593007/>.

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If you have any questions about this request or foresee any problems in fully releasing the requested records please contact me as soon as possible, I can be reached at (602) 465-5000 or sskankey@goldwaterinstitute.org.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Stacy Skankey', with a stylized, flowing script.

Stacy Skankey
Staff Attorney
Scharf-Norton Center for
Constitutional Litigation at the
Goldwater Institute



December 4, 2023

SENT VIA E-MAIL & U.S. MAIL

U.S. Department of Education
Office of the Executive Secretariat
FOIA Service Center
400 Maryland Avenue, SW, LBJ 7W106A
Washington, DC 20202-4536
ATTN: FOIA Public Liaison

Re: Freedom of Information Act Request Regarding Grand Canyon University

Dear FOIA Public Liaison:

On behalf of the Scharf-Norton Center for Constitutional Litigation at the Goldwater Institute (the “Goldwater Institute”) and pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, this correspondence is a request for records, regardless of format, medium or physical characteristics.

Specifically, we seek the following documents and records:

- (1) Copies of all email communications between the individuals identified below pertaining to the Federal Student Aid’s (“FSA”) or the U.S. Department of Education’s (“DOE”) investigation and fine of Grand Canyon University (“GCU”) for alleged violations of the Higher Education Act and/or federal regulations, as well as GCU’s Provisional Program Participation Agreement, from January 1, 2021 to the date of this request:
 - a. Richard Cordray
 - b. Christopher Madaio
 - c. Kristen Donoghue
 - d. Susan Crim
 - e. Lina Khan
 - f. Michael Tankersley
 - g. Rohit Chopra
- (2) Copies of records that indicate the total number of complaints submitted by members of the public to the DOE pertaining to GCU’s disclosure of the cost of its doctoral programs from January 1, 2020 to the date of this request.

FOIA Public Liaison

December 4, 2023

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Electronic production of records and information is acceptable. If the records are produced electronically, please include all associated metadata. If you refer me to a website containing responsive records, please specify the precise web address where they may be found.

Please note that the Goldwater Institute is a not-for-profit 501(c)(3) organization. As such, no responsive records will be used for commercial purposes.

We are willing to pay fees for this request up to three hundred dollars (\$300.00). If you estimate that fees will exceed this amount, please inform me first.

I request your response within the statutory timeframe of twenty (20) business days. If you are unable to complete the request within that time, please contact me with your progress and expected completion date. The Goldwater Institute regularly disseminates information to the public. Given the critical and timely public importance of the activities of the federal government raised in this FOIA request, we request expedited production.

Please mail the responsive records to the mailed address above or e-mail address below.

If you deny access to any of the above public records, please provide forthwith a written statement of the express grounds for the denial, citing the law or regulation under which access is denied.

If you have any questions about this request or foresee any problems in fully releasing the requested records please contact me as soon as possible, I can be reached at (602) 465-5000 or sskankey@goldwaterinstitute.org.

Sincerely,



Mrs. Stacy Skankey
Staff Attorney
Scharf-Norton Center for Constitutional Litigation
at the Goldwater Institute